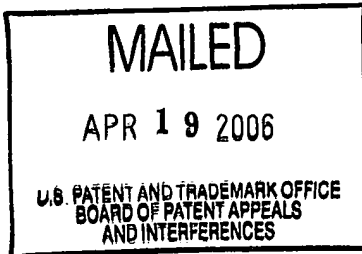


UNITED STATES PATENT AND TRADEMARK OFFICE



BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte THOMAS R. ADAMS et al.

Application 08/113,561

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on March 27, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being electronically returned to the examiner. The matters requiring attention prior to docketing are identified below:

A review of the Image File Wrapper (IFW) indicates that appellants filed an Appeal Brief on July 1, 2005 using the format set forth in 37 CFR § 41.37(c). However, the Appeal Brief does not fully comply with 37 CFR § 41.37(c).

37 CFR § 41.37 states:

(a)(1) Appellant must file a brief under this section within two months from the date of filing the notice of appeal under § 41.31.

.

(c)(1) The brief shall contain the following items under appropriate headings and in the order indicated in paragraphs (c)(1)(i) through (c)(1)(x) of this section.

.

(x) *Related proceedings appendix.* An appendix containing copies of decisions rendered by a court or the Board in any proceeding identified pursuant to paragraph (c)(1)(ii) of this section.

An in-depth review of the Appeal Brief indicates that the following section is missing from the Appeal Brief:

1) "Related proceedings appendix," as set forth in 37 CFR § 41.37(c)(1)(x);

In addition, we are unable to locate the following references relied on by the Examiner on page 3 of the Examiner's Answer mailed September 23, 2005:

Stephanopoulos et al., "Metabolic engineering-methodologies and future prospects", Trends in Biotechnology, Vol. 11 (September 1993), pp. 392-396; and

Post-Beittenmiller et al. "Expression of Holo and Apo Forms of Spinach Acyl Carrier Protein-I in Leaves of Transgenic Tobacco Plants", The Plant Cell, Vol. 1 (September 1989), pp. 889-899.

Application 08/113,561

Accordingly, it is

ORDERED that the application is returned to the
Examiner:

- 1) to hold the Appeal Brief filed July 1, 2005
defective;
- 2) for notification to appellants to file a supplemental Appeal Brief in compliance with 37 CFR § 41.37;
- 3) for consideration of the supplemental Appeal Brief,
and, if necessary, to vacate the Examiner's Answer mailed
September 23, 2005, and issue a new Examiner's Answer;
- 4) to provide a complete copy of the Stephanopoulos et
al. and Post-Beittenmiller et al. references and to have a
complete copy of both references scanned into the IFW file;
- 5) for written notification to appellants regarding
the action taken; and
- 6) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: 

DALE M. SHAW
Program and Resource Administrator
(571) 272-9797

DMS/psb

Application 08/113,561

Robert E. Hanson
Fulbright & Jaworski, LLP
600 Congress Avenue
Suite 2400
Austin, TX 78701